

**MINUTES OF REGULAR MEETING  
ILLINOIS GAMING BOARD  
FEBRUARY 22, 2000  
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

The Illinois Gaming Board ("Board") held its Regular Meeting on February 22, 2000 in the auditorium on the 5th floor of the State of Illinois Building, Chicago, Illinois, pursuant to the Illinois Open Meetings Act, 5 ILCS 120.

The following Board Members were present: Gregory C. Jones, Chairman; and Members, Joseph A. Lamendella, Sterling M. Ryder and Staci M. Yandle.

Also in attendance were: Administrator Sergio E. Acosta, Special Counsel to the Board Robert F. Casey, Deputy Administrators Joseph Haughey, Allan McDonald, and Thomas Swoik, Chief Legal Counsel Mareile' Cusack, other members of the staff, the media, the general public and interested parties.

Chairman Jones called the meeting to order at 9:50 a.m. Member Lamendella moved **that the Board retire to Closed Session pursuant to Section 2(c), paragraphs (1), (4), (11), (14) and (21) of the Open Meetings Act, to discuss the following subject matters:**

- 1. Issues Concerning Applicants and Licensees**
- 2. Recommendations of Administrative Law Judges**
- 3. Pending Litigation and Matters Involving Probable Litigation**
- 4. Investigatory Matters**
- 5. Personnel Matters**
- 6. Closed Session Minutes**

Member Yandle seconded the motion. The Board adopted the motion by unanimous consent.

The Board convened in Open Session at 1:30 p.m.

Chairman's Report

The Chairman stated that the approval of the minutes would be postponed due to the absence of Member Levine.

Chairman Jones welcomed new Board Member Sterling Mac Ryder. He stated that Member Ryder has held various positions in state government for 30 years. Most recently, Mac served as Deputy Chief Counsel for the Gaming Board until his retirement in August 1999. The Chairman stated that Mac would be a tremendous asset to the Board with his knowledge of legislation, government and gaming issues.

The Chairman stated that:

- The Board is still working on a date to hold its special meeting on problem gambling issues. He reminded members of the public that written comments and materials on issues related to problem gambling should be submitted to the Administrator.
- The Gaming Board's website is being finalized. The website will contain general information about the Board, monthly statistical reports and other matters of public interest. The website address will be [WWW.IGB.STATE.IL.US](http://WWW.IGB.STATE.IL.US).

Chairman Jones thanked Bob Charlton, Systems Analyst, Deputy Administrator Tom Swoik and his administrative assistant Brenda Thompson for their tireless efforts in bringing the agency into the twenty-first century. He also thanked Revenue Director Glen Bower for providing staff to assist on developing the website.

Chairman Jones invited other Board members to comment on any other issues of concern.

Member Lamendella stated that the Board would be looking into Due Process issues related to owner licenses, occupational licenses and the processing of applications. He stated that notice and opportunity to be heard are a main concern for the Board. Member Lamendella asked all counsel for licensees and other interested parties to contact Chief Counsel Mareile Cusack to start a dialog.

#### Administrator's Report

Administrator Acosta announced Jim Wagner would be joining staff on March 1 as the new Deputy Administrator of Investigations. He stated that Mr. Wagner is a 30-year veteran of the FBI. Most recently, Jim has been assigned in Chicago as the head of the Organized Crime section.

The Administrator stated that the investigation into the key persons of Horseshoe Gaming continues. He stated that because it is an on going investigation the staff and Board would not be making any further public comment about the matter. The Administrator stated that staff is closely monitoring the events of the federal trial in Louisiana of former Governor Edwin Edwards.

#### Monthly Performance Report

Deputy Administrator Swoik summarized the monthly statistical reports for January AGR and patron counts. He reported that the January AGR was \$129.9 million bringing the total AGR since dockside gambling began, in June, to over \$888.1 million. The Admissions total for January was over 1.5 million -- 56 percent above January 1999. Mr. Swoik stated that the states share of taxes for the last 12 months was up by

approximately \$76 million or 30 percent over the prior 12 months. The local share was up by \$12 million or 15 percent.

### Owner Licensee Items

PAR-A-DICE GAMING COMPANY ("PGC") – Donna B. More and William Boyd, representing PGC, requested initial consideration for renewal of its owner's license.

Mr. Boyd introduced members of the PGC organization. Mr. Boyd stated that Boyd Gaming operates 11 gaming facilities in five states with employees dedicated to superior customer service. He stated that Boyd Gaming provided the seed money (\$100 million over ten years) for the creation of the National Center for Responsible Gaming headquartered in Kansas City, Missouri. The center provides financial grants to fund scientific studies related to causes and treatments of problem gambling.

Mr. Boyd reported that:

- PGC's 1999 charitable contributions totaled approximately \$200,000.
- Payroll was approximately \$18.6 million with a payout of approximately \$7.3 million in employee benefits.
- PGC spent \$2.5 million in capital expenditures to preserve the facility including both the interior and exterior.
- In calendar year 2000, PGC has allocated \$2.8 million for capital expenditures.
- The hotel had a 91 percent occupancy rate in 1999.
- For calendar year 1999, wagering taxes exceeded \$27.5 million and admissions were approximately 4.5 million.

HOLLYWOOD CASINO AURORA ("HCA") – Ed Pratt, representing HCA, described its proposed enhancement to its facility in Aurora. Mr. Pratt displayed diagrams of the current and proposed configurations. He stated that HCA proposes to link the two vessels together on one side of the pavilion. He reported that part of the master plan is to add a permanently moored facility that will encompass the entire front of the existing casino. Mr. Pratt stated that the barge will be 4,000 square feet and that slot machines currently located on the third and fourth levels of the smaller vessel will be relocated to the barge area. He stated that the project will take three to four months with a completion date of July 1, 2000.

Mr. Pratt stated that the barge connection has been engineered and designed to be disconnected. The vessel will remain fully equipped and prepared to cruise. He added that the new docking facility is part of construction that needs to take place for the permanently moored docking facility.

In response to Administrator Acosta, Mr. Pratt stated that the cost of the project is just over \$3 million. The Administrator asked if there have been any preliminary discussions with the Corp. of Engineers, the Coast Guard or any other agencies. Mr. Pratt stated that HCA has had extensive conversations with the Corp. of Engineers and all approvals have been received. He stated that HCA is still awaiting approval from

the State Fire Marshall's Office and that HCA would forward all approvals to the Administrator and staff before beginning construction of the project.

Member Ryder asked if it is HCA's position that no matter what the Coast Guard thinks, under the law, HCA is now going from two riverboats to one. Mr. Pratt stated he believes it is still two vessels connection by a floating portion or a barge. He stated that it is the Coast Guard's perspective that it is still two vessels because they are still being maintained and ready to cruise.

Member Ryder asked the Administrator and Chief Counsel to take a close look at the definition as revised in the Riverboat Gambling Act and make sure that HCA's proposal still comports with what a riverboat is. Member Ryder asked if HCA will still only have the 1200 gaming position. Mr. Pratt concurred.

Chairman Jones asked how the space on levels 3 and 4 of the smaller vessel are to be utilized. Mr. Pratt stated that the space will be left vacant at this time.

Pursuant to a resolution adopted by the Board on September 19, 1995, Member Ryder moved **that the Board delegate to the Administrator the authority to approve the facility reconfiguration proposed by Hollywood Casino Aurora.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote.

EMERALD CASINO, INC. – Mike Ficaro, representing Emerald, presented some renderings that included plans and architecturally designed concepts. The renderings presented a front view of the casino, the parking garage, an overhead site view, floor plans for each of the three levels of the project, various elevations of the interior and a summary fact sheet. He stated that Emerald has previously submitted to the Board a site plan, a list of the professionals proposed to be involved in the project and the gaming floor layout.

Member Jones asked Mr. Ficaro to respond to three questions.

1. What construction has Emerald undertaken or authorized in Rosemont?
2. How much has Emerald spent on the project so far?
3. Has Emerald entered into any construction agreements so far?

In response to question one, Mr. Ficaro responded that a significant amount of non-barge work has taken place. He stated that the basin for the barge is almost complete, the pavilion foundation is substantially complete, structural steel is being installed, excavation for the parking garage addition is almost complete and the foundation footings are being poured. In response to question two, Mr. Ficaro stated that the funds expended as of the end of January, have been less than \$10 million (in construction) which represents less than 10 percent of projected project cost. In

response to question three, Mr. Ficaro stated that no contracts have been signed in relation to construction.

Member Yandle asked specifically if Emerald has at this point in time entered into any construction agreements. Walter Hanley, Senior Vice President, stated that Emerald has provided staff over the last two weeks with copies of executed contracts and copies of draft contracts. He stated that Emerald has a very strong number of professional consultants and draft contracts for the rest of its professionals and contractors.

Administrator Acosta asked if the basin is completed. Mr. Hanley responded yes. The Administrator asked how far construction on the barge has gotten. Mr. Ficaro stated that structural steel has been added to the hull of the barge. He stated that the statute provides the project is to be complete within 15 months and Emerald is moving along mindful of its obligation to complete the project within 15 months.

Administrator Acosta asked Mr. Hanley to explain briefly to the Board what was said in a meeting with staff regarding Emerald's relationship right now vis-à-vis any contracts with its general contractor and how that work is proceeding.

Mr. Hanley responded that currently the general contractor is proceeding on a time and materials basis. He stated that the design of the casino has not progressed to a level where a guaranteed maximum price can be established.

Chairman Jones asked if Emerald has informed the Board or the staff who the subcontractors are. Mr. Hanley responded no, that Emerald does not enter into any agreements with subcontractors. The Chairman asked for the identification of the subcontractors that are working on the site currently. Mr. Hanley responded that he does not know who the subcontractors are.

Member Lamendella asked if Emerald has been presented with a general contractor's sworn affidavit. Mr. Hanley responded not to his knowledge. Upon further questioning Mr. Hanley added, that payments have been made but he is not sure if the lien waivers for the initial payments have been received.

In response to Member Lamendella, Mr. Hanley stated that less than \$10 million (more than \$5 million) has been paid to all contractors including excavation and materials.

Member Lamendella asked if Emerald has construction counsel. Mr. Hanley responded yes, Emerald has an owner's representative that is helping with the contracts and over seeing the construction progress.

In response to Member Lamendella, Mr. Hanley stated that McHugh Construction Company is the owner's representative. The Chief Financial Officer, John McMahon, signs the checks after receiving input from the owner's representative and the architects certifying that the work has been done as billed.

Member Lamendella asked Mr. McMahon if he has received partial lien waivers from the subcontractors. Mr. McMahon stated that Emerald does not contract with the subcontractors. Upon further questioning, Mr. McMahon stated that Plote Construction did the excavation work totaling approximately \$3 million or \$4 million.

In response to Member Lamendella, Mr. McMahon stated that a partial lien waiver was obtained from Plote Construction. He also stated that Arrow Concrete, a subcontractor, did the foundation work costing approximately \$500,000.

Member Ryder questioned Mr. Ficaro on his interpretation of Section 7(e) of the Act which states, "*The Board may revoke the owner's license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application, if the Board determines license revocation is in the best interest of the State.*" Member Ryder stated that the Board has not given Emerald any approvals so the 15-month period has not commenced.

Mr. Ficaro concurred with Member Ryder and stated that Emerald intends to come to the Board for every approval necessary and will continue its dialog with the Board.

Member Lamendella moved to adopt the following motion:

**WHEREAS the Board has been notified that Emerald is proceeding with the construction of a casino in Rosemont; and**

**WHEREAS Emerald is a licensee with a pending application for renewal and relocation of its owner's license, and therefore, subject to the requirements set forth under the Riverboat Gambling Act and Rules; and**

**WHEREAS Emerald has not obtained prior Board approval for the construction that it has undertaken in Rosemont or for the related agreements that it has entered into; and**

**WHEREAS the Board has not approved the construction of a casino site or any agreement related to the construction.**

**NOW THEREFORE BE IT RESOLVED that:**

- 1) Emerald is to submit to the Administrator no later than March 15, 2000, a written memorandum explaining;**
  - a) The reasons the company has failed to comply with the requirements set forth under the Riverboat Gambling Act and Board Rules; and**

**b) The reasons the company should not be required to immediately cease and desist the construction in Rosemont.**

Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

Mr. Ficaro thanked the Board for the clarification of its position and stated that he understands the concerns of the Board in light of the circumstances under which construction is being made and the effects of a lawsuit. Mr. Ficaro stated that Emerald will do everything necessary to satisfy the Board's obligations.

CASINO ROCK ISLAND – ("CRI") – Donna More, representing CRI, requested final consideration of the transfer of ownership interest from the majority shareholder, D. James Jumer, to each of his three children.

Member Yandle moved that **the Board approve the transfer of 768 shares (256 shares each) of the outstanding stock of the Rock Island Boatworks, Inc. to James F. Jumer, Silvia M. Wicks, and John A. Jumer.** Member Ryder seconded the motion. The Board approved the motion unanimously by voice vote.

SOUTHERN ILLINOIS RIVERBOAT CASINO CURISES, INC. (SIRCC") – Mike Ficaro and Michael Crider, representing SIRCC, introduced the management team of Players International, Inc. The Board watched a video tape, presented by SIRCC, describing the operation in Metropolis since dockside gaming was approved and the effect on its employees.

The presentation illustrated:

- Players as a good corporate partner and neighbor.
- The Ferry Street project which provided new lighting and sidewalks.
- Scholarship programs given which have paid out more than \$400,000 to graduating seniors by the city from tax revenues.
- The number of employees increased by 10 percent within one month of dockside gaming.
- The Player's Island Casino Community Involvement Panel which oversees the distribution of funds to charitable organizations and sponsorship of community and regional events.
- Donations to projects that help educate the young people.
- The 1999 Christmas in April program in which Players took a day to improve and repair the home of a Metropolis family in need.
- That since 1997 Players has been the largest commercial contributor in the region to the Lion's Club Telethon of Stars and a leading donor to area United Way charities such as the Red Cross, the salvation Army and Boy Scouts as well as local senior, domestic and developmental ventures.



- The Four Rivers Center for the Arts, a proposed cultural center that will serve the entire region. The Center will have a variety of arts and entertainment as well as serve as an educational facility and post local exhibits and projects.
- The Mound City National Preservation Commission, a charitable organization formed by a group of concerned citizens and local veteran organizations. Its goal is to preserve and expand the Mound City Cemetery, a burial ground in Southern Illinois for the laid to rest of veterans and their families. In 1999 Players became a major contributor.

Mr. Crider stated that Players has met the original intent of the Riverboat Gambling Act. It has generated increased tax dollars for the City of Metropolis and the State of Illinois. He stated that Players has generated tourism for the State with 70 percent of its clientele coming from outside the State of Illinois.

Member Yandle asked Mr. Crider to state what SIRCC's plans are for making capital contributions to maintain the property and improve its appearance and safety. Mr. Crider stated that capital expenditure plans will be presented to the Players board in the next 30-60 days as it relates to the next fiscal year. He added that if the acquisition by Harrah's is approved, Harrah's will see that \$30 million worth of improvements are made to the facility for such things as improving the ramp, expanding the facility and the amount of gaming space available, expansion of the restaurant facilities, and improving the parking options at the facility.

Member Yandle followed up by asking what commitment or plan Players has, separate and apart, from the acquisition for maintaining the facility and dealing with any safety concerns that may exist, such as the ramp. Mr. Crider stated that the Players organization has concerns about the availability of capital to proceed with the ramp upgrade.

Mr. Crider introduced John Groom, President & CEO of Players. Mr. Groom stated that Players is committed to keeping the operation in solid and safe working conditions. He added that they are not prepared to do anything beyond what is required to keep it in safe condition. He stated that Players does not want to expend significant capital at this point.

Member Yandle asked Mr. Groom if SIRCC is committed to continuing the general maintenance and appearance of the property and what its plans are for this. Mr. Groom stated that Players is committed to maintaining a safe environment for its employees and customers. He added that a credit facility of \$50 million is available for this purpose.

In response to Member Ryder, Mr. Crider stated that Players is a partial owner of a 120-room hotel, operated by Amerihost. The occupancy rate is approximately 60-70 percent on an annual basis. Member Ryder asked if the hotel is a major part of its marketing activity. Mr. Crider responded no. Member Ryder asked if Players

coordinates the hotel with any of its tourism activity. Mr. Crider stated that there are approximately 300 rooms (including the Player's Hotel) in Metropolis that Players utilizes for packages and groups.

Member Ryder commented that the operation in Metropolis provides an opportunity for Southern Illinois to benefit. He stated that Players has a responsibility to a wider area than some of the northern area casinos and hopes that Players pursues tourism and economic development. He encouraged Players to work with the Department of Commerce & Community Affairs and other Chambers of Commerce in the area. Mr. Crider stated that Players would continue to participate in the regional development of Southern Illinois.

Mr. Ficaró respectfully requested approval of SIRCC's owner's license.

Member Yandle moved that **the Board approve the renewal of the owner's license of Southern Illinois Riverboat Casino Cruises, Inc. ("SIRCC") for a period of 1 year expiring 2001.**

**In renewing the license, the Board orders the following:**

- 1. SIRCC shall work with the Administrator to immediately address and remedy the safety concerns on the property as identified by staff;**
- 2. SIRCC is to submit to the Administrator within 30 days a detailed plan outlining the capital contributions that the owners of SIRCC will be making to the property in order to improve the overall appearance and safety of the property and demonstrate a commitment to the continued viability and competitiveness of the license.**
- 3. The Board orders SIRCC to submit to the Administrator a written report regarding the due diligence the company has conducted to assure that no person who is or was involved in the Louisiana bribery scheme is currently employed by or in any other way involved with SIRCC.**

**Further, I move that the following persons and entities be formally designated as Key Persons of the licensee:**

- Players Holding Company and Players International, Inc.**
- Chief Executive Officer of Players International, Inc.**
- President of SIRCC.**
- Vice President and General Manager of SIRCC.**
- The trustee of the Griffin Group Trust.**

Member Ryder seconded the motion. The Board approved the motion unanimously by voice vote.

Mr. Ficaro requested approval of Alan Reinecke as SIRCC's Security Director.

Member Lamendella moved that **the Board approve Alan Reinecke as a Level 1 Occupational Licensee of Southern Illinois Riverboat Casino Cruises, Inc.**

Member Ryder seconded the motion. The Board approved the motion unanimously by voice vote.

HARRAH'S CASINO JOLIET ("Harrah's)/PLAYERS – John Janicik, representing Harrah's, requested final approval of the proposed merger between Harrah's and Players. Mr. Janicik introduced Tim Wilmott, President of the Eastern Division of Harrah's; Steve Brammell, General Counsel for Harrah's; and, Dennis Gallagher, National Compliance Director for Harrah's.

Mr. Brammell updated the Board on activities in Louisiana concerning Players International Inc. ("PII"). Mr. Brammell stated that in December 1999, the Louisiana Gaming Control Board ("LGCB") enjoined in a stipulation, which acquired an agreement with PII to the State of Louisiana. PII paid \$10.2 million to the State of Louisiana and the state agreed to release PII and most of its directors and officers from any liabilities rising out of the on-going investigation in Louisiana. On February 15, 2000, the LGCB and PII entered into a second stipulation which released the balance of those directors and officers from any liabilities arising from the investigation and required PII to agree to pay to the State of Louisiana an additional \$600,000. At this hearing the LGCB also approved the acquisition of Players by Harrah's.

Mr. Groom addressed the impact of this proposed acquisition from Players perspective. He stated three reasons why Players believes the Board should approve the acquisition:

1. The shareholders have been in a sell mode for the past year and will receive \$8.50 per share, a premium of approximately \$2.00 over what the company would be trading at without the acquisition.
2. Harrah's represents the best opportunity for the Player's employees. It affords employees with the ability to transfer to other Harrah's properties with an opportunity for career growth.
3. The community will benefit from the acquisition through opportunities for increased employment at the facility, and employment generated from the construction.

Chairman Jones stated that as a general matter the Board is inclined to approve the acquisition. He stated that Harrah's has been a good licensee in Illinois with respect to its Joliet facility. The Chairman stated that there are concerns with respect to how the Board handles the issue of the acquisition in light of the legislation. If the legislation is

found to be unconstitutional it would put Harrah's in a position where they could not hold both licenses.

Member Lamendella stated that the Board would like an agreement that is finite and concrete from the parties that states what would happen if the legislation is found unconstitutional. Member Yandle concurred with Member Lamendella's comments. She added that the Board would like the worse case scenario addressed in the agreement, which is what happens to the 800 employees in Metropolis.

Member Ryder stated that the communities of Metropolis and Joliet are widely diverse. He does not believe the same approach would work at both operations. There are different citizens and economic conditions. Mr. Janicik responded that Harrah's has a sensitivity for the employees in Metropolis and Illinois' regulatory environment. Mr. Janicik stated that Harrah's has been trying over the last four months to intervene in the lawsuit but noted that the motion has not been allowed to date. With respect to pursuing an agreement with the Board, he stated that Harrah's is completely committed to finding a resolution.

Mr. Janicik asked for a recess to meet with his clients. At 3:15 p.m. Chairman Jones call for a recess.

The Board resumed in open session at 3:33 p.m.

HARRAH'S CASINO JOLIET ("Harrah's") – Tom O'Donnell, representing Harrah's, requested final approval of its barge construction project. He noted for the Board that John Mezzera, City Manager of Joliet was in the audience. Mr. O'Donnell updated the Board on approvals from other State agencies for this project.

**Pursuant to Board Rule 3000.230(d) Member Lamendella moved that the Board authorize Harrah's to proceed with its proposed barge construction project and related agreements. The approval of the construction project is subject to Harrah's from time to time, as directed by the Administrator, updating the Board on the progress of the construction and Harrah's obtaining final approval from the Board of its barge construction when the project has been completed and Harrah's has obtained approval of its structure from the State Fire Marshall, U.S. Coast Guard, if applicable, and other appropriate authorities.** Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

HARRAH'S/PLAYERS (Continued) – Mr. Janicik thanked the Board for the recess. Mr. Janicik stated that his clients believe that receivership provides the best opportunity for preserving a fair market value sale of the property, preserving jobs in the interim, and seeing that \$30 million worth of improvements are made to the facility. He stated that Harrah's is willing to commit to that in writing. Member Lamendella asked if this would be a voluntary receivership by agreement. Mr. Janicik responded yes.

Member Yandle stated that the Administrator and staff will work with Harrah's to come up with an agreement.

Mr. Janicik asked the Board to give a delegation of authority to the Administrator for final approval so that initial approval could be given today. Member Lamendella stated that he would not endorse that proposition. Chairman Jones stated that, it is the consensus of the Board to see the agreement before any approvals are given. Member Lamendella added that he does not want to impose any time constraints on the Administrator and staff. Member Yandle concurred.

ALTON GAMING COMPANY ("Alton") – Cory Aronovitz, representing Alton, requested approval of Don Falcone as Surveillance Manager.

Member Lamendella moved that **the Board approve Don Falcone as a Level 1 Occupational Licensee of Alton Gaming Company.** Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

#### Supplier Licensee Items

GDC, INC. – The Administrator stated that GDC sought leave of the Board to withdraw its license. He stated that staff recommends that the withdrawal be granted.

**Whereas GDC has met all withdrawal conditions,** Member Ryder moved that **the Board approve the withdrawal of GDC, Inc.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote.

#### Occupational Licensees

Member Yandle moved that **the Board approve 86 applications for an Occupational License, Level 2, and 224 applications for an Occupational License, Level 3 and deny 1 application for an occupational license Level 2 and 2 applications for an occupational License Level 3.**

**Further, the Board directs staff to contact 1 pending applicant for occupational license to notify that applicant that staff has recommended that the Board deny his application for an occupational license Level 3 and provide this applicant an opportunity to respond.** Member Ryder seconded the motion. The Board approved the motion unanimously by voice vote.

#### Disciplinary Complaints

Chief Counsel Cusack stated that staff is seeking the revocation of Lucy Popek's license due to a felony conviction.

Member Lamendella moved that **the Board issue a disciplinary complaint against Lucy Popek seeking to revoke her Level 2 occupational license.** Member Yandle seconded the motion. The Board approved the motion unanimously by voice vote.

### Public Commentary

Steve Reidl, Executive Director of the Illinois Licensed Beverage Association, which represents the retail sector of the liquor market, addressed the issue of the sale of alcohol on riverboats. He stated that he feels the owner licensees should be held to the same standards of local ordinance as other business owners, instead of maritime law. Mr. Reidl asked the Board why it has not moved forward on adopting the proposed rule on alcohol sales. He encouraged the Board to expeditiously file the rule.

The other speakers for public commentary agreed to defer their comments until after the discussion on rulemaking was rendered regarding the hours of alcohol sales.

### Board Policy Items

RULEMAKING – Chief Counsel Cusack stated that in December 1999 the Board authorized the first notice filing of a new rule which provided that “Unless otherwise agreed to by the local municipality or the home rule unit where the riverboat is located, a holder of an Owner’s License may not sell alcoholic beverages or furnish or permit the same to be consumed on the Riverboat at any time beyond the hours permitted by local law or ordinance applicable to the dock or location where the Riverboat is situated.” Subsequent to the Board meeting, Board members expressed concern about the rule and the authority of the Board to delegate its authority to the local ordinances.

Ms. Cusack stated that Section 5(c)(18) of the Act gives the Gaming Board *“The sole and exclusive authority to establish the hours of sale and consumption of alcohol on a riverboat not withstanding any provision of the Liquor Control Act of 1934 or any local ordinance regardless of whether the riverboat makes excursions.”* This section of the Act further reinforces that *“The decision of when alcohol can be served on a riverboat is exclusively within the jurisdiction of this Board.”* In light of this, the staff pre-submitted the rule for informal comments from the Joint Committee on Administrative Rule (“JCAR”). JCAR expressed the same concerns. Ms. Cusack stated that due to the concerns expressed by the Board and JCAR, staff held back the rule.

Ms. Cusack proposed a second rule which states: *A holder of an Owner’s License may sell alcoholic beverages or furnish or permit the same to be consumed on the Riverboat at any time between the hours of 10:00 a.m. and 2:00 a.m. on Monday through Saturday, and at any time between the hours of 10:00 a.m. and 1:00 a.m. on Sunday each gaming day. A gaming day is measured from the start of each calendar day to the finish of the gaming operation in each 24-hour period.* Ms. Cusack recommended approval of this rule as it would establish a uniform period of time for all licensees when alcohol can be served. It also maintains the jurisdiction of the Board over the determination of when alcohol can be served.

Member Lamendella stated that he understands there will be a withdrawal of the prior rule and the proposed rule will be circulated for comment before the first filing. Chairman Jones stated that this circulation will hopefully illicit attitudes of the industry and public interest groups. He stated that the rule is a synthesis of looking at the home

rules and in general follows that approach. Member Ryder stated that he is not satisfied with either draft. He believes it is very important to receive public comments before making a first notice filing. Member Yandle feels this is an important issue and encourages the feedback from the public and the industry.

Member Ryder moved that **the Board withdraw its previous motion directing staff to submit for first notice filing the proposed rule which provides that the home rule unit in which a riverboat is situated shall determine the hours during which alcohol is served on the riverboat.**

**I further move that the board direct staff to distribute the new version of Board rule 3000.930 discussed at this meeting for public comments.** Member Yandle seconded the motion.

Chairman Jones asked if anyone would like to make public comment before the Board renders a final vote.

Mr. Reidl stated that if the Board is looking for uniformity he feels this is a good approach. He stated that this rule might still cause a problem for Players in Metropolis. Mr. Reidl stated that the City of Metropolis does not allow alcohol to be served at all on Sundays. He recommended an exception to the rule for Sunday sales in Metropolis to maintain the wishes of the local community.

Member Yandle asked if currently there are Sunday sales in Metropolis. Mr. Reidl responded, only on the boat.

Member Ryder asked if Paducah, Kentucky has Sunday sales of alcohol. Mr. Reidl was not sure. Mr. Crider responded that one entity in Paducah has liquor sales on Sunday. He stated that there are also several communities in Southern Illinois that have liquor sales on Sunday. Mr. Crider noted for the record that Massac County and Metropolis do not allow Sunday sales.

Member Yandle asked Mr. Crider what has been the response of the sale of alcohol on Sundays. Mr. Crider stated that during SIRCC's seven years in Metropolis alcohol has been sold on the vessel only. In keeping with local ordinance, SIRCC has not sold alcohol in its restaurants on Sundays. Mr. Crider stated that people come to the casino to gamble and drinking is a component of that entertainment experience. SIRCC is concerned with the competition in Indiana and Mississippi who have no such (alcohol) limitations. He stated that it would put SIRCC at a disadvantage if alcohol could not be served at all on Sundays.

Member Yandle asked if SIRCC has come to any understanding with local officials in regard to alcohol sales on Sundays. Mr. Crider stated that he has met with the Mayor and two members of the City Council. He stated that it is his understanding that they support the continuation of the program as it is. Mr. Crider further stated that if the

issue comes to selling alcohol throughout the community on Sunday, versus not allowing it, the Mayor and Council would prefer not to open up the entire community.

Member Yandle encouraged Mr. Crider to inform the municipality that the Board is considering this rule and is interested in the hearing their opinions.

Administrator Acosta asked Mr. Riedl if he is aware of any situation currently in which individuals go to the casino on Sunday's solely to drink because that is the only place in town that is serving alcohol. Mr. Reidl responded that he has no personal knowledge of this occurring. Mr. Reidl added that he feels all businesses should have to live by the same rules. He stated that Players pushed for dockside gaming, which has increased their revenues, now Players should have to take the bad with the good.

Willie Morris, Jr., a youth pastor from the Rock Church in Chicago's Austin neighborhood, stated that his community has a problem with gambling. He is opposed to any and all forms of gambling and alcohol consumption. He stated that this activity destroys families and neighborhoods. He urged the Board to be cautious in their decisions.

Chairman Jones invited Pastor Morris to submit any information and statistics he has to the Administrator.

Anita Bedell, representing the Illinois Church Action on Alcohol Problems, stated that in regard to alcohol sale, that the local jurisdictions not extend special hours for the sale of alcohol just for the casinos. Ms. Bedell also requested that the Board not have a special meeting to take action on the acquisition of Players by Harrah's. Regarding the issue of Horseshoe, Ms. Bedell asked the Board to wait on rendering a decision of Mr. Binion until a decision is made in the Federal trial of former Governor Edwin Edwards. Ms. Bedell stated that there is an investigation of the Gaming Board as to who leaked the confidential staff report pertaining to Horseshoe Gaming. She is not concerned with who leaked the report but asked the Board what it is going to do about what is in the report to alleviate the concerns of the public.

Member Ryder restated his motion on alcohol sales. Member Yandle seconded again. The Board approved the motion unanimously by voice vote.

OATHS – Chief Counsel Cusack stated that from time to time licensees or other persons seeking action from the Board have come before the Board and made representations. She stated that the Board has expressed concerns over the accuracy of some of these representations. Staff has discussed whether persons addressing the Board should take oaths prior to beginning their discussions.

Member Yandle stated that she would like staff to take under consideration when an oath is appropriate and circumstances where it is not. Member Ryder stated that he does not think it is a good idea or useful to place restrictions on the give and take in a



public meeting. He stated that he feels it hinders the overall conversation of these issues. Member Ryder stated that the Board can always defer action in order to get further detail or accuracy. Member Yandle generally agreed with Member Ryder. Member Yandle stated that she does believe that in some circumstances sworn statements of an oath may be necessary. Member Lamendella invited comments from licensees and the public on the issue of Oaths.

Ms. Cusack stated that staff needs to determine which sector of the public addressing the Board should take oaths. She stated that staff needs to consider whether:

- A generic oath is taken among all people addressing the Board.
- Each time a person addresses the Board an administrative oath could be taken.
- Each speaker could present testimony slips in which they agree that oral or written testimony is subject to an oath.

Administrator Acosta stated that it is not advocates speaking on behalf of licensees or people representing clients to be placed under oath. He clarified that it would be the equivalent of a fact witness. The Board concurred. Chairman Jones asked the public to submit comments to the Administrator.

Member Yandle asked the staff to explore or identify from their point of view, issues or scenarios under which staff feels it may be beneficial or appropriate for an oath situation.

EX PARTE Communication – Ms. Cusack stated that from time to time Board Members have been contacted directly by licensees who are seeking action by the Board. She stated that there is concern whether these communications are appropriate. Staff is looking at whether all communications be formalized in a public forum. Ms. Cusack stated that the rules currently prohibit Ex Parte communications once the matter is in a judicial proceeding between any party who is part of the hearing including staff and Board members.

Member Lamendella quoted Rule 3000.1146 Prohibition of Ex Parte Communication. He stated that this Board is a microcosm of all three branches of government. He feels that it has quasi-judicial, quasi-legislative, rulemaking and executive functions and he stated that as a general proposition it is not proper in the quasi-judicial setting for the Board to communicate with anybody including staff.

Member Ryder asked staff for a memo with respect to existing Illinois law about Ex Parte Communication in contested cases. He feels it is a bright line rule and that Board Members cannot communicate with one of the parties in an administrative hearing. If a Board Member were to do so, he or she would have a responsibility to prepare a memorandum of that conversation and put it on the record. Member Ryder stated that

it is important to see what other agencies in Illinois do, what other states do, and to determine what is considered the best practice in this area.

Member Lamendella stated that the public forum is a better venue for communication between licensees and the Board.

Member Yandle stated that she thinks there is a need for further definition. She stated that Ex Parte Communication with Board Members is a logical extension of the judicial setting and that the Board needs some concrete parameters.

MOTION PRACTICE – Member Lamendella stated that he would like to see a judicial-type motion practice for most matters of written communication between owner licensees primarily, but possibly also for occupational licensees and the Board.

Ms. Cusack asked if the idea behind the motion practice is to formalize the manner in which communications occur. She further asked if the idea is that the opposing party, to the extent that there is one, also be served at the same time that the Board is served as an opportunity for them to file a response to the motion.

Member Lamendella stated that as a general proposition, if an owner licensee is asking for action from the Board he feels that it would be better brought by a motion than a letter to a Member or all the Members.

Member Yandle stated that she is concerned to the extent that the Board would be attaching the legal concept of a motion to something that may not be necessarily judicial or quasi-judicial in nature. Member Yandle further stated that she does not see how the Board can extend this concept to general matters where an owner licensee is requesting some action.

Member Lamendella gave an example using the Harrah's/Players acquisition. He stated that rather than the licensee representative sending a letter on the proposed acquisition to a specific Board Member, a motion should be filed before the Board. He further stated that a motion should be filed unless the issue raised pertained to a matter wholly within the initial purview of the Administrator or counsel.

Chairman Jones asked Member Lamendella for clarification. In response, Member Lamendella stated that if a licensee is asking for action from the Board, it should be formally filed with the Board, in the form of a written motion.

Member Ryder asked the staff to prepare a memorandum defining the issues. He is concerned that in administrative law it is possible to get so legalistic that you end up with some undesirable and unforeseen consequences.

Member Yandle asked to what extent is it appropriate for owner licensees to communicate a request directly to a Board Member or the Board as a whole versus it

going through the Administrator and staff. She gave the following example: A letter from an owner licensee is sent to the Administrator who forwards it to the Board. The staff then states, "the attached communication was received from X and this is what they want you to consider." Member Yandle feels that these are the types of issues we need to define or get more direction in terms of how certain issues or requests for action are communicated to the Board.

Administrator Acosta observed that there is some overlap between the two issues (Ex Parte Communication and Motion Practice) as well as some shared concerns. He stated that staff will address these in the form of a memo to the Board. The Administrator stated that from a practical standpoint requests made directly to Board Members would create some significant difficulties if action were needed because Board Members are not permitted to speak to each other. He feels that the Board Members can be made aware of these requests, without the necessity of a formal motion.

RULEMAKING Continued – Chief Counsel Cusack stated that at the January Board meeting, the Board authorized staff to initiate the first notice filing of a proposed receivership rule. She recommended that the Board authorize the staff to distribute the rule for public commentary.

Member Ryder moved that **the Board direct staff to initially distribute proposed Rule 3000.238 to licensees and interested parties. After the informal comment period has expired unless the staff has received material comments, I move that the Board authorize the First Notice submission of this rule with the Secretary of State.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote.

There being no further business to come before the Board, Member Yandle moved **that the Board stand adjourned.** Member Lamendella seconded the motion. The Board approved the motion unanimously by voice vote and adjourned at 5:00 p.m.

Respectfully submitted,

Susan O. Weber  
Secretary to the Board